## REMARKS/ARGUMENTS

Claims 1-36 are pending in the present application have been subject to restriction. Claims 31-33 have been withdrawn as being drawn to a non-elected invention, but Applicants request reconsideration of the restriction as applied to these claims. Claims 34-36 have been cancelled as being drawn to a non-elected invention. Applicants reserve the right to pursue the subject matter encompassed by the claims in a related co-pending application.

This application is asserted by the Examiner to contain inventions or group of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. As such, the Examiner has required that in accordance with 37 C.F.R. § 1.499, Applicants in reply to this action elect a single invention to which the claims must be restricted. Restriction to one of the following inventions has been required by the Examiner under 35 U.S.C. § 121 and § 372:

Group I, claims 1-30, drawn to a method of screening an agent for activity in modulating T lymphocytes function.

Group II, claims 31-33, drawn to method of screening an agent for activity in modulating T lymphocytes function, wherein cells are infected with HSV.

Group III, claim 34, drawn to a method for blocking suppression of cytotoxic T cell activity.

Group IV, claim 35, drawn to a method of suppressing cytotoxic T cell activity against target antigen.

Group V, claim 36, drawn to a method of screening an agent for activity in suppressing T lymphocyte function.

The Examiner has asserted that the inventions listed as Groups I-V above do not relate to a single general inventive concept under PCT Rule 13.1 because , under PCT Rule 13.2, the inventions lack the same or corresponding special technical features for the following reasons:

The invention of Group I is known in the prior art as evidence by Munger *et al.* (US 2003/017129 Al, 09/11/2003) wherein the reference teaches a method of screening an agent for activity of T lymphocytes wherein a cell expressing a HSV Us3 polypeptide (see all the claims, especially claims 50-71). The Examiner believes that the cited evidence proves that the technical feature of Group I does not make a contribution over the prior art, and thus, the claims are not so linked by a special technical feature within the meaning of PCT Rule 13.2.

Applicants elect with traverse group I, claims 1 through 30. In addition, Applicants respectfully request that the Examiner at least examine claims 31 through 33 as set forth below. In the meantime, claims 31 through 33 have been withdrawn from prosecution. Further, claims 34 through 36 have been canceled without prejudice to continued prosecution of the subject matter encompassed by the claims in a later filed related co-pending application. Reconsideration of the request for restriction is respectfully requested.

The Examiner has alleged that the invention of Group I is known in the prior art as evidenced by Munger *et al.* Applicants respectfully must disagree the Munger *et al.* discloses or even suggests any claim of the present application or a special technical feature of the claims of Group I within the meaning of PCT Rule 13.2. In particular, Munger *et al.* discloses HSV $U_s3$ protein is involved with the modulation of the protein BAD and the induction of apoptosis. Composition comprising BAD peptides and those that inhibit the activity of $U_s3$ protein are disclosed as being inhibitors of apoptosis. Screening methods are also disclosed by Munger *et al.* The screening methods are used to identify agents that induce apoptosis not modulate a T lymphocyte function as defined and claimed in the present invention. In addition, the steps of the method comprise contacting a BAD peptide or polypeptide with a candidate compound and measuring for an effect on BAD activity. One specific embodiment comprises steps of contacting a BAD peptide or polypeptide with the $U_s3$ polypeptide and measuring for differences in BAD activity. As above, these teachings do not disclose or suggest any technical feature of

the present invention. Therefore, the cited evidence does not prove that the technical feature of Group I does not make a contribution over the prior art. Thus, the claims are linked by a special technical feature within the meaning of PCT Rule 13.2. Applicants therefore respectfully request the Examiner reconsider and withdraw the pending request for extension. Further, although Applicants believe that the claims as filed relate to a single inventive concept, the Examiner is respectfully requested to consider substantive examination of Groups I (claims 1-30), Group II (claims 31-33), and Group V (claim 36) all directed to methods of screening for agents that modulate T lymphocyte function.

## CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

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